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MCKESSON TECHNOLOGIES INC. and
MCKESSON CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

TRUE HEALTH CHIROPRACTIC, INC., and
MCLAUGHLIN CHIROPRACTIC
ASSOCIATES, INC.,

Plaintiffs,

v.

MCKESSON CORPORATION,
MCKESSON TECHNOLOGIES INC.,
and DOES 1-10,

Defendants.

Case No. 4:13-cv-02219-HSG

**DEFENDANTS' STATEMENT OF
ELEMENTS OF LIABILITY FOR
PLAINTIFFS' INDIVIDUAL
TCPA CLAIMS**

Pretrial Conference: January 10, 2022
Time: 10:00 a.m.
Courtroom: 2, 4th Floor
Judge: Haywood S. Gilliam, Jr.

Pursuant to the Court’s January 7, 2022 Order, Defendants McKesson Technologies Inc. and McKesson Corporation submit this “proposed statement of the elements of liability, . . . without legal argument” for Plaintiffs’ individual Telephone Consumer Protection Act claims. (ECF No. 509.) Defendants reserve all appellate rights.

I. ELEMENTS OF TCPA LIABILITY

Under Section 227(b)(1)(C) of the TCPA, it is unlawful for a person or entity:

- (1) to send,¹
- (2) to a telephone facsimile machine, i.e., a standalone fax machine,²
- (3) an unsolicited advertisement.³

II. ELEMENTS OF TCPA CLAIM FOR TREBLE DAMAGES

Under Section 227(b)(3)(C) of the TCPA, a court has discretion to increase the award up to three times if the court finds that:

- (1) the defendant willfully or knowingly
- (2) sent a fax advertisement to a standalone fax machine without prior permission.

Dated: January 10, 2022

MORRISON & FOERSTER LLP

By: /s/ Tiffany Cheung
Tiffany Cheung

Attorney for Defendants
MCKESSON TECHNOLOGIES INC.
and MCKESSON CORPORATION

¹ (See ECF No. 428 at 1:24-26.)

² (See ECF No. 491 at 1:13-2:4.)

³ (See ECF No. 403 at 3:17-4:1; ECF No. 491 at 2:5-6.)